Remarks

The above-referenced patent application has been reviewed in light of the Office Action,

dated **May 5, 2004** (hereafter, the Action), in which: claims 78-81, 83-85, 87-89, 91-92 and 94-

99 are rejected under 35 U.S.C. § 102(e) as being anticipated by Wyld et al (US Patent 5,978,933

hereinafter "Wyld"), and claims 1-77, 82, 86, 90 and 93 are rejected under 35 U.S.C. § 103(a) as

being unpatentable over Wyld in view of Rathunde (US Patent 6,574,477 hereinafter

"Rathunde"). In response, Applicants respectfully disagree.

With this amendment, claims 1-99 are pending. No claims have been cancelled, amended

or added.

Rejections under 35 U.S.C. 102(e):

On page 2 of the Action, claims 78-81, 83-85, 87-89, 91-92 and 94-99 are rejected under

35 U.S.C. 102(e) as being anticipated by Wyld. The rejection of such claims on this basis is

respectfully traversed.

Rejection of Claims 78 and 87-89:

Claim 78 states:

> A fault tolerant, distributed processing, computer apparatus
> for use in systems, the apparatus comprising:
> a *plurality of processes executing on at least one processor*;
> said processes *executing an application* in the same mode
> as at least one other application or in a mode different from said
> one other application, said same and different modes being:
> a) *a pure distributed mode*....

Emphasis added.

Application No. 09/608,888   Examiner Jacobs
Atty. Docket No. P10424   -2-   Art Unit 2157

The Action provides on page 2 that "Wyld discloses a fault tolerant, distributed processing, computer apparatus ... comprising: a plurality of processes... said processes executing an application in the same mode as at least one other application or in a mode different from said one other application, said same and different modes being: a) a pure distributed mode...." Applicants respectfully disagree.

As is well-established, to support a *prima facie* case of anticipation, the Action must show that each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. See MPEP § 2131. In the present case, Applicants respectfully submit that the teachings of the reference cited by in the Action fail to support a *prima facie* case of anticipation.

Applicants respectfully submit that Wyld fails to disclose processes *executing an application in a pure distributed mode* as cited in claim 78 above. In particular, Wyld discloses a fault tolerant architecture comprising two systems where an active process is provided with a standby process. Col. 6, ln. 34-40. In describing this fault tolerant architecture, Wyld fails to disclose or suggest that these *processes are executing an application in a pure distributed mode*. Accordingly, Wyld does not describe each and every element in claim 78.

Applicants respectfully assert that, based on the rationale articulated above, the Action has not established a *prima facie* case of anticipation to support the rejection of claim 78 under 35 U.S.C. § 102(e). Therefore, for at least the foregoing reasons, it is respectfully requested that the Examiner withdraw rejection of claim 78.

Independent claim 87 also includes similar elements to claim 78. In particular, claim 87 contains the elements of *executing said application in a pure distributed mode*. Accordingly, claim 87 is patentable over the cited reference for at least the same reasons as to those presented

Application No. 09/608,888   Examiner Jacobs
Atty. Docket No. P10424   -3-   Art Unit 2157

PAGE 7/16 * RCVD AT 7/26/2004 6:39:09 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-1/7 * DNIS:8729306 * CSID: * DURATION (mm-ss):06-30

for claim 78. Therefore, Applicants respectfully request that the Examiner withdraw the rejection of claim 87.

Applicants note that claims 88 and 89 depend from patentable base claim 87. As a result, in addition to any independent bases for patentability, Applicants respectfully submit that claims 88 and 89 are patentable over the cited reference by virtue of at least this dependence. Thus, Applicants respectfully request that the 35 U.S.C. § 102(e) rejection of claims 88 and 89 be withdrawn.

Rejection of Claims 79, 80-81 and 83-85:

Claim 79 provides:

> A method in a computer apparatus... the method comprising the steps of:...
> a *master critical resource set modifying shared data.*...

Emphasis added.

The Action provides on page 3 that "Wyld discloses a method....comprising the steps of:... a master critical resource set modifying shared data...." Applicants respectfully disagree.

Applicants respectfully submit that Wyld fails to disclose a method with *a master critical resource set modifying shared data* as cited in claim 79 above. In particular, Wyld discloses a fault tolerant system where processes share common resources and exchange status information. Col. 4, ln. 22-30 and Col. 6, ln. 44-65. In describing this fault tolerant system, Wyld fails to disclose or suggest *a master critical resource set modifying shared data.* Accordingly, Wyld does not describe each and every element in claim 79.

Applicants respectfully assert that, based on the rationale articulated above, the Action has not established a *prima facie* case of anticipation to support the rejection of claim 79 under

Application No. 09/608,888
Atty. Docket No. P10424   -4-

Examiner Jacobs
Art Unit 2157

35 U.S.C. § 102(e). Therefore, for at least the foregoing reasons, it is respectfully requested that

the Examiner withdraw rejection of claim 79.

Applicants note that claims 80-81 and 83-85 depend from patentable base claim 79. As a

result, in addition to any independent bases for patentability, Applicants respectfully submit that

claims 80-81 and 83-85 are patentable over the cited reference by virtue of at least this

dependence. Thus, Applicants respectfully request that the 35 U.S.C. § 102(e) rejection of

claims 80-81 and 83-85 be withdrawn.

Rejection of Claims 94-99:

Claim 94 states:

> A method in a computer apparatus... the method
> comprising the steps of:...
> *an active single resource set modifying private data...*

Emphasis added.

The Action provides on page 4 that "Wyld discloses a method....comprising the steps

of:... an active single resource set modifying private data..." Applicants respectfully disagree.

Applicants respectfully submit that Wyld fails to disclose a method with *an active single*

resource set modifying private data as cited in claim 94 above. In particular, Wyld discloses a

fault tolerant system where processes share common resources and exchange status information.

Col. 4, ln. 22-30 and Col. 6, ln. 44-65. In describing this fault tolerant system, Wyld fails to

disclose or suggest *an active single resource set modifying private data*. Accordingly, Wyld

does not describe each and every element in claim 94.

Applicants respectfully assert that, based on the rationale articulated above, the Action

has not established a *prima facie* case of anticipation to support the rejection of claim 94 under

Application No. 09/608,888
Atty. Docket No. P10424   -5-   Examiner Jacobs
                                                                Art Unit 2157

35 U.S.C. § 102(e). Therefore, for at least the foregoing reasons, it is respectfully requested that

the Examiner withdraw rejection of claim 94.

Applicants note that claims 95-99 depend from patentable base claim 94. As a result, in

addition to any independent bases for patentability, Applicants respectfully submit that claims

95-99 are patentable over the cited reference by virtue of at least this dependence. Thus,

Applicants respectfully request that the 35 U.S.C. § 102(e) rejection of claims 95-99 be

withdrawn.

Rejections under 35 U.S.C. § 103(a):

On page 6 of the Action, claims 1-77, 82, 86, 90 and 93 are rejected under 35 U.S.C. §

103(a) as being unpatentable over Wyld in view of Rathunde. The rejection of such claims on

this basis is respectfully traversed.

Rejection of Claims 1-27, 48-75 and 77:

Claim 1 provides:

> A distributed processing computer apparatus for use in
> systems, the apparatus comprising:
> a plurality of processes executing on at least one processor;
> at least one application executing in a pure distributed
> mode...;
> an ALDM for *distributing incoming events to said*
> *application.*

Emphasis added.

The Action provides on page 6 that "Wyld discloses a distributed processing computer

apparatus... comprising:... at least one application executing in a pure distributed mode....; an

ALDM for distributing incoming events to said application." Applicants respectfully disagree.

Application No. 09/608,888   Examiner Jacobs
Atty. Docket No. P10424   -6-   Art Unit 2157

As is well-established, to support a *prima facie* rejection of obviousness under 35 U.S.C. § 103(a), the prior art reference (or references when combined) must disclose or suggest all the claim limitations. See MPEP 2143. In this case, as developed more fully below, Applicants respectfully submit that this burden has not been met.

Wyld discloses an SO library that provides switching functions and also discloses SO routines to fulfill these switching functions. Col. 8, ln. 20-63. Applicants respectfully submit that the SO routines described in Wyld fail to disclose *distributing incoming events to the application* as cited in claim 1 above. Accordingly, Applicants respectfully submit that Wyld fails to disclose the above stated elements of claim 1.

The Rathunde reference is cited in the Action to address the acknowledged lack in Wyld of "a system controller for controlling system activation and initial load distribution." See Action, page 7. However, Rathunde wasn't cited to disclose or suggest *distributing incoming events to said application*. As stated below, Applicants respectfully submit that Rathunde also fails to disclose or suggest the above stated elements of claim 1.

Rathunde discloses radio *processes* and the load *balancing* of those radio *processes among processors*, such that a load balancing adjustment can be made to the processing configuration. See Col. 8, ln.. 17-35. The load balancing of processes among processors fails to disclose or suggest *distributing incoming events* to said application. Accordingly, Applicants respectfully submit that the Rathunde reference does not cure the deficiencies of the Wyld reference presented above.

Applicants respectfully assert that, based on the rationale articulated above, the Action has not established a *prima facie* case of obviousness to support the rejection of claim 1 under 35

U.S.C. § 103(a). Therefore, for at least the foregoing reasons, it is respectfully requested that the Examiner withdraw the rejection of claim 1.

Independent claims 48 and 75, 77 also include similar elements to claim 1. In particular, claims 48, 75 and 77 contain *distributing incoming events to said application*. Accordingly, claims 48 and 75, 77 are patentable over the cited reference for the same reasons as those presented for claim 1. Therefore, Applicants respectfully request that the Examiner withdraw the rejection of claims 48 and 75, 77.

Applicants note that claims 2-27 and 49-74 depend from patentable base claims 1 or 48, respectively. As a result, in addition to any independent bases for patentability, Applicants respectfully submit that claims 2-27 and 49-74 are patentable over the cited reference by virtue of at least this dependence. Thus, Applicants respectfully request that the 35 U.S.C. § 103(a) rejections of 2-27 and 49-74 be withdrawn.

Rejection of Claims 28-46 and 76:

Claim 28 states:

> A fault tolerant computer apparatus… comprising:
> a plurality of processes executing…;
> at least one application executing…;
> an ADSM for providing fault tolerant functionality in said application and wherein said *application is represented by a single resource set*.

Emphasis added.

The Action provides on page 7 that "Wyld discloses a fault tolerant computer apparatus… comprising:… at least one application executing…; an ADSM for providing fault tolerant functionality in said application and wherein said application is represented by a single resource set." Applicants respectfully disagree.

Application No. 09/608,888   Examiner Jacobs
Atty. Docket No. P10424   -8-   Art Unit 2157

Wyld discloses a fault tolerant system where two processes share common resources. Col. 4, ln. 22-30. Applicants respectfully submit that Wyld fails to disclose or suggest an *application represented by a single resource set* as cited above in claim 28. Accordingly, Applicants respectfully submit that Wyld fails to disclose the above stated elements of claim 1.

The Rathunde reference is cited in the Action to address the acknowledged lack in Wyld of "a system controller for controlling system activation and initial load distribution." See Action, page 8. However, Rathunde fails to cure the deficiencies of the Wyld reference for the above stated elements of claim 28.

Applicants respectfully assert that, based on the rationale articulated above, the Action has not established a *prima facie* case of obviousness to support the rejection of claim 28 under 35 U.S.C. § 103(a). Therefore, for at least the foregoing reasons, it is respectfully requested that the Examiner withdraw the rejection of claim 28.

Independent claim 76 also includes similar elements to claim 28. In particular, claim 76 contains an *application represented by a single* reserved *resource set*. Accordingly, claim 76 is patentable over the cited reference for at least the same reasons as those presented for claim 1. Therefore, Applicants respectfully request that the Examiner withdraw the rejection of claim 76.

Applicants note that claims 29-47 depend from patentable base claim 28. As a result, in addition to any independent bases for patentability, Applicants respectfully submit that claims 29-47 are patentable over the cited reference by virtue of at least this dependence. Thus, Applicants respectfully request that the 35 U.S.C. § 103(a) rejections of 29-47 be withdrawn.

Application No. 09/608,888   Examiner Jacobs
Atty. Docket No. P10424   -9-   Art Unit 2157

<u>Rejection of Claims 82, 86, 90 and 93</u>:

Claims 82 and 86 depend from independent claim 79. Claim 79 provides:

> A method in a computer apparatus.... the method
> comprising the steps of:...
> a *master critical resource set* modifying shared data... and
> *updating to a shadow resource set*....

Emphasis added.

The Action provides on pages 20 and 21 "Wyld discloses the invention substantially as ·
claimed." Applicants respectfully disagree.

Applicants respectfully submit that Wyld fails to disclose the elements in claim 79 cited
above. As mentioned previously in response to the 35 U.S.C. § 102(e) rejection of claim 79,
Wyld discloses a fault tolerant system where processes share common resources. Col. 4, ln. 22-
30. When describing this fault tolerant system, Wyld fails to disclose or suggest *a master*
critical resource set modifying shared data and *updating to a shadow resource set*. Accordingly,
Applicants respectfully submit that Wyld fails to disclose the above stated elements of claim 79.

Additionally, Rathunde fails to cure the deficiencies of Wyld stated above. Rathunde
discloses an RCS database that stores active-standby designations for RCS instances that can be
stored anywhere in a mobile switching center. Col. 9, ln. 19-26. Storing active-standby
designations does not disclose or suggest a *master critical resource set* modifying shared data
and *updating to a shadow resource set*. Rather, Rathunde only discloses a database that
identifies which systems are active and which are in standby. Accordingly, Rathunde fails to
cure the deficiencies of Wyld.

As mentioned above, claims 82 and 86 depend from patentable base claim 79. As a
result, in addition to any independent bases for patentability, Applicants respectfully submit that
claims 82 and 86 are patentable over the cited reference by virtue of at least this dependence.

Application No. 09/608,888   Examiner Jacobs
Atty. Docket No. P10424   -10-   Art Unit 2157

Thus, Applicants respectfully assert that, based on the rationale articulated above, the Action has not established a *prima facie* case of obviousness to support the rejection of claims 82 and 86 under 35 U.S.C. § 103(a). Therefore, for at least the foregoing reasons, it is respectfully requested that the Examiner withdraw the rejection of claims 82 and 86.

Dependent claims 90 and 93 depend from independent claim 87. Independent claim 87 also includes similar elements to claim 79. In particular, claim 87 contains a *master critical resource set* modifying shared data and *updating to a shadow resource set*. Accordingly, claim 87 is patentable over the cited reference for at least the same reasons as those presented for claim 79.

Applicants respectfully submit that since claims 90 and 93 depend from patentable base claim 87, in addition to any independent bases for patentability, claims 90 and 93 are patentable over the cited reference by virtue of at least this dependence. Thus, Applicants respectfully request that the 35 U.S.C. § 103(a) rejections of 90 and 93 be withdrawn.

Conclusion

For at least the foregoing reasons, Applicants respectfully submit that claims 1-99 are in condition for allowance and such action is earnestly solicited. *The Examiner is respectfully requested to contact the undersigned by telephone if it is believed that such contact would further the examination of the present application.*

Please charge any shortages and credit any overcharges to our Deposit Account number 50-0221.

Respectfully submitted,
Ashwani Garg, et al.

Date: 7/26/04   by: _____
Ted A. Crawford
Reg. No. 50,610
Patent Attorney for Assignee Intel Corporation

Intel Corporation
PO Box 5326
SC4-202
Santa Clara, CA 95056-5326
Tel. (503) 712.2799

Application No. 09/608,888   Examiner Jacobs
Atty. Docket No. P10424   -12-   Art Unit 2157